83 - 1826

No. _____

Office - Supreme Court, U.S
FILED
APR 26 1984
ALEXANDER L. STEVAS
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1983

THOMAS R. ANGEL, THOMAS ANGEL and LORETTA ANGEL,

Petitioners,

vs.

MUNICIPAL COURT OF SAN DIEGO COUNTY,
JUDGE RICHARD J. HANSCON,

Respondent,

Michael Castle

Real Party in Interest.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE
STATE OF CALIFORNIA

THOMAS R. ANGEL,
THOMAS ANGEL and
LORETTA ANGEL
Post Office Box 753
Rancho Santa Fe, California 92067
Telephone: (619) 755-7258

Petitioners pro se

42 pp

QUESTION PRESENTED

Whether or not municipal court Judge Mack P. Lovett, disqualified for cause, rendered Judgment on verdict void for an excess of jurisdiction by granting plaintiffs' motion to strike trial Judge Charles M. Snells' minute order which is authorized nowhere in law (APPENDIX A), and did therein violate petitioners right to due process under the *Fourteenth Amendment of the United States Constitution* in such a manner that is repugnant to the *United States Code, Title 28, Section 453.*

All parties appear in the caption of the case in the United States Supreme Court.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
TABLE OF AUTHORITIES CITED	iv
OPINIONS BELOW	1
JURISDICTION	2
STATUTORY and CONSTITUTIONAL PROVISIONS INVOLVED	3
STATEMENT OF CASE	5
1. Proceedings in the Courts Below	5
2. Presentation of Question to Courts below	10
REASONS FOR GRANTING WRIT	16
I JUSTICE	16
CONCLUSION	17
APPENDICES	18
A - Trial Minute Order of August 18, 1982	
B - Court Minute Order of November 23, 1982 and ORDER WITH FINDINGS	

TABLE OF CONTENTS CONTINUED

APPENDICES CONTINUED

C - JUDGMENT ON VERDICT IN OPEN COURT

D - O R D E R on appeal to the Appellate Department of the Superior Court

E - O R D E R on petition for rehearing and application for certification for transfer to the court of appeal by the Appellate Department of the Superior Court

F - COURT OF APPEAL decision on petition for Writ of Mandate

G - COURT OF APPEAL denial on amended petition for Writ of Mandate

H - Petition for hearing denied by the California Supreme Court

TABLE OF AUTHORITIES CITED

Page

CONSTITUTION

United States Constitution
Fourteenth Amendment 3,10

UNITED STATES CODE

Title 28 Section 1257(3) 2

CALIFORNIA STATUTES

CALIFORNIA CODE OF CIVIL PROCEDURE

Section 435(a)(2) 3,12

Section 435(b)(1) 3,12

Section 473 4,14

Section 474 4,13

Section 911 3,11

Section 1008 4,15

CASES

Abellevia v District Court of Appeal (1941)
17 Cal 2d 280, 289-290 13

Atkins v Atkins (1960)
177 Cal App 2d 207, 211 15

Auto Equity Sales, Inc. v Superior Court (1962)
57 Cal 2d 450, 455 13

Sullivan v Sullivan (1967)
256 Cal App 2d 301, 304 16

OPINIONS BELOW

Trial Judge Charles M. Snells' order finding plaintiff had not properly pled the action as he had failed to name the insurance company directly as a party to this action and directing plaintiff to name the insurance company as a party plaintiff was entered August 18, 1982 and is reproduced as APPENDIX A to this petition.

The order granting plaintiffs' motion to strike trial minute order of August 18, 1982 was signed December 22, 1982 and is reproduced as APPENDIX B to this petition.

Judgment on verdict was entered in judgment book No. 145 at page 359 on February 17, 1983 and is reproduced as APPENDIX C to this petition.

Judgment of the lower court was affirmed on November 17, 1983 by the appellate department of the Superior Court, No. 435836, and is reproduced as APPENDIX D to this petition.

The appellate department of the Superior Court denied defendants/appellants' petition for rehearing and application for certification for transfer to the

Court of Appeal on December 14,1983 and is reproduced as APPENDIX E to this petition.

Petitioners' petition for Writ of Mandate was denied as incomplete on January 9, 1984 by the Court of Appeal, Fourth Appellate District, division One, and is reproduced as APPENDIX F to this petition.

Petitioners' amended petition for Writ of Mandate was denied January 20, 1984 by the Court of Appeal, Fourth Appellate District, Division One, and is reproduced as APPENDIX G to this petition.

Petitioners' petition for hearing to the Supreme Court of the State of California was denied on February 29, 1984 and is reproduced as APPENDIX H to this petition.

JURISDICTION

The ruling of the Supreme Court of the State of California was entered February 29, 1984. This Court has Jurisdiction under *United States Code, Title 28, Section 1257(3).*

STATUTORY and CONSTITUTIONAL PROVISIONS INVOLVED

Fourteenth Amendment of the Constitution of the United States, Section 1 in relevant part provides:

> "No State shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The doctrine of stare decisis in relevant part provides:

> "All tribunals exercising inferior jurisdiction are required to follow decisions of courts exercising superior jurisdiction"

California Code of Civil Procedure Section 911 in relevant part provides:

> "A court of appeal may order any case or appeal within the original jurisdiction of the municipal and justice courts in its district transferred to it for hearing and decision as provided by rules of the judicial council when the superior court certifies, or the court of appeal determines, that such transfer appears necessary to secure uniformity of decision or to settle important questions of law."

California Code of Civil Procedure Sections 435(b)(1) and 435(a)(2) provide in relevant part as follows:

> *§435(b)(1)* "Any party, within the time allowed to respond to a pleading may serve and file a notice of motion to strike the whole or any part thereof." *§435(a)(2)* "The term "pleading" means a demurrer, answer, complaint or cross-complaint."

California Code of Civil Procedure Section 474

provides in relevant part as follows:

> "Amendment of a pleading after the Statute of Limitations has run is not permitted when the result is to add a party who up to the time of the amendment was not a party to the proceedings."

California Civil Code of Procedure Section 473 in

relevant part provides:

> "The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party ..."
>
> "When it appears to the satisfaction of the court that such amendment renders it necessary, the court may postpone the trial, ..."

California Civil Code of Procedure Section 1008 in

relevant part provides:

> "(a) When an application for an order has been made to a judge, or to the court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within ten (10) days after knowledge of the order and based upon an alleged different state of facts may, make application to the same judge who made the order, to reconsider the matter and modify, amend or revoke the prior order."
>
> "(e) A violation of this section may be punished as a contempt; and an order made contrary thereto may be revoked by the judge ... who made it, or vacated by a judge of the court in which the action or proceeding is pending."

STATEMENT OF THE CASE

1. Proceedings in the Court Below

The complaint herein for damages for personal injuries sustained in an automobile accident occuring September 8, 1978 was filed June 4, 1979.

At trial, on August 18, 1982, Judge Charles M. Snell found that plaintiff had not properly pled the action as he had failed to name the insurance company directly as a party to this action and directed plaintiff to name the insurance company as a party plaintiff. (APPENDIX A)

At trial, on August 18, 1982, counsel for plaintiff stated for record in open court as follows:

> "Mr. Gross: I'm not sure if we're representing them (Insurance Company) directly. I think - - This case is Mr. McGuires', and I picked it up in midstream. I'm not sure that we're counsel of record for them."
>
> Mr. Gross: "Your honor just - It's my impression that if they were a party, Mr. McGuire would have named them, but I believe a quick telephone call will answer that question, if you'll allow me to do that."
>
> The Court: Well, I'll let you do that, but I want my papers out here to say who's on this case. Now, that's the - - They are actually a party plaintiff.

Mr. Gross: No. I - - I'm going to have to say that I don't believe they are, your honor.

The Court: Well, I do.
I'm going to tell you this: It's not going to go to trial until they're named.

Mr. Gross: Okay. I really think that I should talk to Mr. McGuire, and I believe that if they were a party plaintiff, he would have named them. Even if they subsequently became a party plaintiff, he would have named them." (Pages 56, 57 & 67)[1]

Pursuant to the trial judge directing plaintiff to amend his complaint by naming the insurance company as a party plaintiff, plaintiff, after waiting in excess of 60 days, scheduled a motion to strike that part of trial minute order directing plaintiff to name the insurance company as a party plaintiff. (Pages 24 thru 48) Defendants/petitioners filed opposition to such motion to strike on November 19, 1982. (Pages 49 thru 71)

Judge Mack P. Lovett, a judge disqualified herein for cause (Pages 113 thru 145), granted such motion

---

[1]All references made herein are to copies of pleadings, orders, etc. from the record of the Municipal Court as set forth in the index of pleadings contained in petitioners' petition for Writ of Mandate to the Court of Appeal, Fourth Appellate District, Division One.

to strike on November 23, 1982 and the order with findings thereto was signed December 22, 1982. (APPENDIX B)

Contained in plaintiffs' motion to strike are declarations by both plaintiffs' counsel and the insurance company declaring the insurance companys' subrogated interest herein as follows:

> (Plaintiffs counsel, Vincent J. Bartolotla, Jr.) 2. "On or about April 24, 1979, Ohio Casualty settled my client, Michael Castle's uninsured motorist claim against it. At that time, they requested, pursuant to the Trust Agreement in the uninsured Motorist's provision of the policy, that I pursue its subrogation rights in the name of Michael Castle as part of Michael Castle's claim against the third - party tortfeasors."
>
> 3. "Since that time, I have pursued the defendants, and each of them, on behalf of Michael Castle, seeking full recovery subject to Ohio Casualty's subrogated interest." (Pages 43 & 44)
>
> (Claims Manger for Ohio Casualty Insurance Company, Del A. Schuster) 3. "On or about April 24, 1979, I settled Michael Castle's claim under said uninsured motorist provision. At that time, I requested, pursuant to a trust agreement in the Uninsured Motorist provision in the policy, that plaintiff's attorney, Vincent J. Bartolotla, Jr., pursue Ohio Casualty's right of subrogation in the name of Michael Castle. He agreed to do so as part of plaintiff, Michael Castle's case against the defendants, and each of them." (Pages 45 & 46)

Plaintiffs counsel further asserted in such motion to strike that the insurance company could not be

named as party plaintiff pursuant to trial judge Charles M. Snells' direction because the applicable statute of limitations had run. (Pages 32 & 33)

The complaint herein was filed June 4, 1979. However the insurance company, for the first time, makes their subrogated interest known pursuant to the aforementioned declarations, signed October 25, 1982.

In addition to not making their subrogated interest known until October 25, 1982, the insurance company actually withheld such material fact by disobeying defendants subpena issued June 29, 1979, (Pages 88, 89 & 90) and further intentionally misrepresented the amount of settlement of Michael Castle's claim as being payment of medical expenses for the following year and general damages in amount of $4,500.00. (Page 91) When actually, in accordance with plaintiffs exhibit G contained in their pleading as to the motion to strike the trial minute order (Page 48), the full settlement of the claim was $4,500.

Petitioners addressed such conduct by way of motions for Summary Judgment and an order to show cause re contempt. (Pages 78 thru 99) Both motions were

heard and denied by Judge Mack P. Lovett, disqualified for cause herein. (Page 171) The orders were subsequently signed by Judge Charles M. Snell. (Pages 172 & 173)

The case was set for trial January 31, 1983. (Page 149) In an attempt to obtain rulings by a judge not disqualified for cause as to all the aforementioned motions prior to trial, petitioners moved for continuance or dropping case from calendar and for striking Judges' rulings as void. (Pages 150 thru 163 & 166 thru 171) Such motions were denied. (Page 175)

Trial took place on January 31, 1983 and judgment on verdict was rendered against defendants/petitioners in the amount of $6,000. (APPENDIX C) Such judgment is insufficient to fullfil the requirements of the insurance companys claimed subrogated interest of $4,500. plus attorney fees, and thereto plaintiff Mike Castle is uneffected as to such judgment.

Petitioners again, in an attempt to secure rulings by a judge not disqualified for cause moved for hearing on judgment. (Pages 176 thru 184)

Petitioners appealed to the Superior Court. Such appeal, petition for rehearing and application for certification for transfer to the Court of Appeal were denied without given reason. The Court of Appeal denied petitioners Writ of Mandate as incomplete and denied petitioners amended Writ of Mandate. The Supreme Court of California denied hearing petitioners Writ of Mandate on February 29, 1984.

2. Presentation of question to courts below

Petitioners represented that the courts excess of jurisdiction rendered judgment herein void and that such excess of jurisdiction was a violation of due process and equal protection under the law in accordance with the *Fourteenth Amendment of the United States Constitution* as herein presented, and presented several times to the Municipal Court, (one such reference is at pages 157 thru 159), and to the Appellate Department of the Superior Court in appellants' opening brief at pages 7 thru 9, and in appellants' petition for rehearing at pages 1 thru 5, and to the Court of Appeal, Fourth Appellate District, Division One, at pages 6 thru 12, and in

petitioners petition for hearing to the California Supreme Court at pages 6 thru 12.

Respondents did not respond to petitioners petition for Writ of Mandate at any court level.

Petitioners made application for certification for transfer to the court of appeal pursuant to *CCP §911* which states in relevant part as follows:

> "A court of appeal may order any case or appeal within the original jurisdiction of the municipal and justice courts in its district transferred to it for hearing and decision as provided by rules of the judicial council when the Superior court certifies, or the court of appeal determines, that such transfer appears necessary to secure uniformity of decision or to settle important questions of law."

Petitioners set forth in their application for certification for transfer to the Court of Appeal (APPENDIX E) as follows:

> "Application for certification is made on the ground that there is a conflict of decision relating to circumstance wherein trial Judge ordered plaintiff to add insurance company as a party-plaintiff, and wherein the applicable statute of limitations had run on such insurance company, and plaintiff, after waiting in excess of 60 days, moved to strike that part of the trial minute order ordering plaintiff to add insurance company named in complaint."
>
> "A motion to strike is improper procedure for modification or revocation of a trial minute order, and in particular since plaintiff declined

to move in any way against such order for over 60 days waived recourse as to such order."

"Further, the judge granting plaintiffs' motion to strike part of trial minute order was not the trial judge, but rather was a judge disqualified for cause as to this case rendering such ruling void as a matter of law and judgment thereto void."

A copy of such application was served on the Court of Appeal on November 29, 1983. (APPENDIX E)

Authority for a motion to strike is provided for in California Code of Civil Procedure as follows:

§435(b)(1) "Any party, within the time allowed to respond to a pleading may serve and file a notice of motion to strike the whole or any part thereof."

§435(a)(2) "the term "pleading" means a demurrer, answer, complaint or cross-complaint."

There is no authority pursuant to a motion to strike for striking a trial judges' minute order, and thereto, the municipal court lacked jurisdiction and exceeded its' jurisdiction in granting plaintiffs motion to strike the trial judges' minute order instructing plaintiff to name the insurance company as party plaintiff.

In accordance with *Abellevia v District Court of Appeal* (1941) 17 Cal 2d 280, 289-290, "Ordinarily, lack of jurisdiction as applied to case when, although court has jurisdiction over the subject matter and parties in the fundamental sense, it has no jurisdiction or power to act except in particular manner, to give certain kinds of relief, or to act without occurences of certain procedural prerequisites."

In accordance with *Auto Equity Sales, Inc. v Superior Court* (1962) 57 Cal 2d 450, 455 and *Abellevia v District Court of Appeal* (1941) 17 Cal 2d 280, 291, "Generally, excess of jurisdiction as where court's action exceeds powers defined by constitutional provision, express statutory declaration, or rules followed under doctrine of stare decises."

Further, Because the applicable statute of limitations had run on the insurance company being named as a party, an amendment pursuant to the trial judges' minute order could not have succeeded in accordance with *CCP §474*, being, "amendment of a pleading after the statute of limitations has run is not permitted when the result is to add a party who up to the time

of the amendment was not a party to the proceedings."

Plaintiffs, without explanation as to cause, waited in excess of 60 days to respond to trial judge Charles M. Snells' instruction to name insurance company as party plaintiff and thereto did not comply with the required time limits for addressing such minute order.

A motion to strike is not legal procedure for striking the trial judges order, nor is amendment permitted by way of declaration pursuant to a motion to strike, nor can an amendment succeed after the statute of limitations has run for such amendment, nor is it legal procedure to permit legal recourse after the required time limits have expired without good cause or in fact any cause alleged for such delay, nor is it legal procedure to deny parties rulings by a judge not prejudice against them.

Judge Charles M. Snells' instruction to plaintiff to add the name of the insurance company as party plaintiff herein was an action entirely authorized in law in accordance with *CCP §473* which reads in relevant part as follows:

> "The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party ..."
>
> "When it appears to the satisfaction of the court that such amendment renders it necessary, the court may postpone the trial, ..."

In accordance with *Atkins v Atkins* (1960) 177 Cal App 2d 207, 211, "The determination to modify or amend rests with the pretrial or trtial judge and his decision will not be reversed unless a clear abuse of discretion is shown."

Further, *CCP §1008* reads in relevant part as follows:

> "(a) When an application for an order has been made to a judge, or to the court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within ten (10) days after knowledge of the order and based upon an alleged different state of facts may, make application to the same judge who made the order, to reconsider the matter and modify, amend or revoke the prior order."
>
> "(c) A violation of this section may be punished as a contempt; and an order made contrary thereto may be revoked by the judge ... who made it, or vacated by a judge of the court in which the action or proceeding is pending."

Therefore there was absolute authority for trial judge Charles M. Snells' minute order and there was

ample legal procedure available to plaintiff for reconsideration as to such minute order.

However, plaintiff chose to ignore all available legal procedure by bringing a motion authorized nowhere in law to strike such order and effectively amended his complaint by way of declaration, also, authorized nowhere in law.

In accordance with *Sullivan v Sullivan* (1967) 256 Cal App 2d 301, 304, "Court has inherent power to set aside a void judgment at any time."

REASON FOR GRANTING WRIT

I

JUSTICE

When the court does that which it has no authority in law to do, what then does the law mean?

Can the court utilize its' discretion in such a way as to eliminate a consideration of the courts' own excesses in jurisdiction?

How many people are effected by the wrong herein done? Each and every individual who believes in and

pursues justice anywhere is effected by injustice. There can be no greater loss to any individual in this society under our system or in any society under any system than the loss of a belief in obtaining justice under such system.

There really is only one reason for granting this petition and that reason is justice.

CONCLUSION

A judgment once made void for an excess of jurisdiction can not then be made non-void. For all the foregoing reasons, petitioners pray that a Writ of Certiorari issue to review the decree of the Supreme Court of the State of California denying a hearing on petitioners petition for Writ of Mandate.

Dated: April 23, 1984

Respectfully submitted

Thomas R. Angel

Thomas R. Angel

Thomas Angel

Thomas Angel

Loretta Angel

Loretta Angel

petitioners pro se

APPENDIX SECTION

A - Trial Minute Order of August 18, 1982

B - Court Minute Order of November 23, 1982 and
ORDER WITH FINDINGS

C - JUDGMENT ON VERDICT IN OPEN COURT

D - O R D E R on appeal to the Appellate Department
of the Superior Court

E - O R D E R on petition for rehearing and
application for certification for
transfer to the court of appeal by
the Appellate Department of the
Superior Court

F - COURT OF APPEAL decision on petition for Writ
of Mandate

G - COURT OF APPEAL denial on amended petition for
Writ of Mandate

H - Petition for hearing denied by the
California Supreme Court

APPENDIX A

In the Municipal Court, San Diego Judicial District
County of San Diego, State of California

DEPT 15 Convened at 9:00 A.M. 18 August 1982 present

Hon. CHARLES M. SNELL Judge C. O'Connor Deputy Clerk

and the following proceedings were had:

MICHAEL CASTLE, a minor, by and through TERRI CASTLE, his guardian ad litem, Plaintiff, vs. THOMAS R. ANGEL, THOMAS ANGEL, LORETTA ANGEL, Defendants	)	CASE NUMBER: 301 451

Transferred from Civil Proceedings Dept. to Dept. 15 for jury trial.

Plaintiff appearing personally and by Ernest Gross. Defendants, and each of them, appearing in proper person.

Court in session at 9:50 A.M.

Without reporter present, defendants are advised by the Court regarding the consequences of

self-representation in a case of this nature. Defendants state that they are aware of such consequences and wish to proceed at this time in pro per with a jury trial.

Court reporter, Joe Sperapani, now present at the request of the Defendants.

Motion in limine by counsel for the Plaintiff to exclude certain issues raised by the defendants which counsel for the Plaintiff alleges to be improper.

The Court finds that the Plaintiff has not properly pled the action as he has failed to name the insurance company directly as a party to this action.

Case taken off calendar on the Court's own motion and the Plaintiff is directed to name the insurance company as a party plaintiff.

CHARLES M. SNELL

co

APPENDIX B

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
County Courthouse, San Diego, Calif. 92101
San Diego Judicial District

CIVIL Proceedings Dept 17 9:00 A.M. 11-23-82

Hon MACK P. LOVETT Judge Batch Deputy Clerk

ERNEST M. GROSS, ESQ.
THORSNES, BARTOLOTTA & McGUIRE
225 BROADWAY, SUITE 1125
SAN DIEGO, CA 92101

CASE NO. 301451

TITLE MICHAEL CASTLE, a minor, by and through
TERRI CASTLE, his guardian Ad Litem
vs
THOMAS R. ANGEL, THOMAS ANGEL, LORETTA ANGEL

THOMAS R. ANGEL, THOMSA ANGEL, (PRO PER)
LORETTA ANGEL
P. O. BOX 753
RANCHO SANTA FE, CA 92067

BY PLAINTIFF

NATURE OF PROCEEDINGS

MOTION TO STRIKE PART OF CIVIL TRIAL MINUTES ORDER

DISPOSITION

NOV 23, 1982

Ernest M. Gross appearing for the plaintiff.

Defendants, Thomas R. and Loretta Angel, appearing in propria persona.

APPENDIX B

OVER VIGOROUS OBJECTION OF DEFENDANTS, MOTION GRANTED. THE LAST TWO PARAGRAPHS OF THE CIVIL TRIAL MINUTES DATED 8-18-82 ARE STRICKEN. Counsel to prepare formal order.

MACK P. LOVETT

APPENDIX B

ERNEST M. GROSS, ESQ.
THORSNES, BARTOLOTTA & McGUIRE
225 Broadway, Suite 1125
San Diego, California 92101
Telephone: (619) 236-9363

Attorneys for Plaintiff

FILED

APR 20, 1983

MUNICIPAL COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, SAN DIEGO JUDICIAL DISTRICT

435836

MICHAEL CASTLE, a minor, by and through TERRI CASTLE, his Guardian ad Litem, Plaintiff, vs. THOMAS R. ANGEL, THOMAS ANGEL, and LORETTA ANGEL, Defendants.	Case No. 301451 ORDER WITH FINDINGS Date: Nov 23, 1982 Time: 9:00 A.M. Dept: Room 2024

The motion of plaintiff, MICHAEL CASTLE, for an Order to Strike the last two paragraphs of the Civil Trial Minute Order for Department 15, dated August 18, 1982, came on regularly for hearing by this court in Room 2024, before the Honorable Mack P. Lovett, on Tuesday, November 23, 1982.

Plaintiff appeared by counsel, Ernest M. Gross; defendants, Thomas R. Angel and Loretta Angel,

appeared in Propria Persona.

The court having considered all documents in support of any and all opposition to the motion; having heard the argument of Ernest M. Gross on behalf of the plaintiff, and Loretta Angel on behalf of the defendants; being fully advised in the premises; proof having been made to the satisfaction of the court, and good cause appearing therefor,

IT IS ORDERED that the last two paragraphs be stricken from the Civil Trial Minute Order of Department 15, dated August 18, 1982.
More particularly, the following language is to be stricken:

> "The Court finds that the Plaintiff has not properly pled the action as he has failed to name the insurance company directly as a party to this action." (sic)
>
> "Case taken off calendar on the Court's own motion and the Plaintiff is directed to name the insurance company as a party plaintiff."

APPROVED AS TO FORM:

Not Signed

Thomas R. Angel, In Propria Persona

APPENDIX B

Not Signed

Loretta Angel, In Propria Persona

Not Signed

Thomas Angel, In Propria Persona

Dated: DEC 22, 1982

Signed by: M. P. LOVETT

Judge of the Municipal Court

APPENDIX C

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
SAN DIEGO JUDICIAL DISTRICT
220 W. Broadway, San Diego, California 92101

Plaintiff: (Abbreviated)

MICHAEL CASTLE

Defendant: (Abbreviated)

THOMAS R. ANGEL, ET AL

JUDGMENT ON VERDICT IN OPEN COURT
Case Number 301451

This cause came on regularly for trial on the 31st day of January, 1983 at 11:30 A.M., before Judge Richard J. Hanscom plaintiff appearing by attorney Ernest Gross defendants appearing in propria persona

A jury of twelve persons was regularly impaneled and sworn to try said action. WITNESSES on the part of plaintiff and defendants were sworn and examined. After hearing the evidence, the arguments of counsel, and instructions of the Court, the jury retired to consider their verdict, and subsequently returned into Court, and being called, answered to their names, and duly rendered their verdict in writing in

favor of plaintiff Michael Castle, by Terri Castle, Guardian Ad Litem in words and figures as follow: ISSUE NO. 1: Were the defendants negligent? Answer: Yes. ISSUE NO. 2: Was the negligence of the defendants a proximate cause of injury to the plaintiff? Answer: yes. ISSUE NO. 3: Without taking into consideration the question of reduction of damages due to the negligence of the plaintiff, if any, what is the total amount of damages suffered by the plaintiff as a proximate cause of the accident in question? Answer $6,000.00 ISSUE NO. 4: Was the plaintiff negligent? Answer: No.

WHEREFORE, by virtue of the law, and by reason of the premises aforesaid, the following judgment was entered: Plaintiff MICHAEL CASTLE, a minor by and through TERRI CASTLE, his guardian ad litem recover from defendants THOMAS R. ANGEL, THOMAS ANGEL,

LORETTA ANGEL

the sum of $6,000.00

Attorney fees $_____

together with costs of $____ (cost bill to be submitted)

APPENDIX C

Entered in Judgment Book No. 145

Page 359

on FEB 17, 1983 By L. Cordahi, Deputy

SDMS (Rev. 5-75)

JUDGMENT ON VERDICT IN OPEN COURT

CCP 664

APPENDIX D

F I L E D

NOV 17, 1983

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

APPELLATE DEPARTMENT

MICHAEL CASTLE, (formerly) a minor, by and through TERRI CASTLE, his guardian ad litem Plaintiff and Respondent, vs. THOMAS R. ANGEL, THOMAS ANGEL, and LORETTA ANGEL, and DOES I through X, inclusive, Defendants and Appellants.	SUPERIOR COURT NO. 435836 MUNICIPAL COURT NO. 301451 (San Diego Judicial District) O R D E R

The judgment of the lower court is affirmed. The court awards no sanctions.

BY THE COURT

Signed: Todd

_____ P.J.

WILLIAM L. TODD, JR.

Signed: Woodworth

_____ J.

DOUGLAS R. WOODWORTH

Signed: Lord

_____ J.

ALFRED LORD

APPENDIX E

Civil No. 435836

FILED

NOV 29, 1983

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
APPELLATE DEPARTMENT

Michael Castle Plaintiff and Respondent, vs. Thomas R. Angel, Thomas Angel and Loretta Angel Defendants and Appellants.	SUPERIOR COURT NO. 435836 (NUNICIPAL COURT NO. 301451) APPLICATION FOR CERTIFICATION FOR TRANSFER TO THE COURT OF APPEAL [CCP §911; Cal Rules of Ct. Rules 62, 63]

Defendants and appellants hereby applies to the above-entitled court for certification of the above-entitled case to the Court of Appeal, State of California, pursuant to Section 911 of the Code of Civil Procedure and Rule 63 of the California Rules of Court.

Application for such certification is made on the ground that there is a conflict of decision relating

to circumstance wherein trial judge ordered plaintiff to add Insurance Company as a party-plaintiff, and wherein the applicable statute of limitations had run on such Insurance Company, and plaintiff, after waiting in excess of 60 days, moved to strike that part of the trial minute order ordering plaintiff to add Insurance Company named in complaint.

A motion to strike is improper procedure for modification or revocation of a trial minute order, and in particular since plaintiff declined to move for reconsideration and to amend pursuant to such order and did not move in any way against such order for over 60 days waived recourse as to such order.

Further, the judge granting plaintiffs' motion to strike part of trial minute order was not the trial judge, but rather was a judge disqualified for cause as to this case rendering such ruling void as a matter of law and judgment thereto void.

The decisions are in conflict with CCP §473; CCP §576; CCP §1008; and Atkins v Atkins (1960) 177 Cal App 2d 207, 211; Jay v Dollarhide (1970) 3 Cal

APPENDIX E

App 3d 1001, 1030; and CCP §170; and Giometti v Etienne (1934) 219 Cal 687, 689 and Cadenasso v Bank of Italy (1932) 214 Cal 562, 567.

Dated: November 29, 1983

Respectfully submitted,

Signed by TRA

Thomas R. Angel
defendant/appellant pro se

Signed by TA

Thomas Angel
defendant/appellant pro se

Signed by LA

Loretta Angel
defendant/appellant pro se

APPENDIX E

F I L E D

NOV 29, 1983

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
APPELLATE DEPARTMENT

Michael Castle Plaintiff and Respondent, vs. Thomas R. Angel, Thomas Angel and Loretta Angel Defendants and Appellants.	SUPERIOR COURT NO. 435836 (NUNICIPAL COURT NO. 301451)

Loretta Angel declares: That she is, and was at the time of service of the papers herein referred to, over the age of eighteen years, that, pursuant to Section 1011, Code of Civil Procedure, she made service, in the County of San Diego, State of California, of the following document:

APPLICATION FOR CERTIFICATION FOR TRANSFER
TO THE COURT OF APPEAL

APPENDIX E

A copy of the original of the above-listed document was, delivered to the office of:

COURT OF APPEAL
Fourth Appellate District
Division One
6010 State Building
1350 Front Street
San Diego, Ca. 92101

Date: Nov 29, 1983

Time of Service:

On Original Only

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 29, 1983 at San Diego, California.

Signed by Loretta Angel

APPENDIX E

F I E D

DEC 14, 1983

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

APPELLATE DEPARTMENT

MICHAEL CASTLE, (formerly) a minor, by and through TERRI CASTLE, his guardian ad litem Plaintiff and Respondent, vs. THOMAS R. ANGEL, THOMAS ANGEL, and LORETTA ANGEL, and DOES I through X, inclusive, Defendants and Appellants.	SUPERIOR COURT NO. 435836 MUNICIPAL COURT NO. 301451 (San Diego Judicial District) O R D E R

The appellants' Petition for Rehearing and Application for Certification for Transfer to the Court of Appeal are denied.

BY THE COURT

Signed: Todd

_____ P.J.

WILLIAM L. TODD, JR.

Signed: Woodworth

_____ J.

DOUGLAS R. WOODWORTH

Signed: Lord

_____ J.

ALFRED LORD

APPENDIX F

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THOMAS R. ANGEL, ET AL., Petitioners, v. SUPERIOR COURT, ETC., COUNTY OF SAN DIEGO; Respondent; MICHAEL CASTEL (FORMERLY) A MINOR, ETC., Real Party in Interest.	FILED JAN 9, 1984 4 Civ. No. 31489 (Super. Ct. No. 301451)

THE COURT:

The petition for writ of mandate has been read and considered by Justices Cologne, Butler and Presiding Justice Brown. It is denied on the basis the petition is incomplete. (Star Motor Imports, Inc. v. Superior Court, 88 Cal.App. 3d 201, 203; Perlman v. Municipal Court, 99 Cal.App.3d 568, 574.)

Signed: Butler

Acting Presiding Justice

cc: All parties

APPENDIX G

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THOMAS R. ANGEL, ET AL., Petitioners, v. SUPERIOR COURT, ETC., COUNTY OF SAN DIEGO, Respondent; MICHAEL CASTEL (FORMERLY) A MONOR, ETC., Real Party in Interest.	F I L E D JAN 20, 1984 4 Civ. No. 31489 (Super. Ct. No. 301451)

THE COURT:

The amended petition for writ of mandate has been read and considered by Justices Cologne, Butler and Presiding Justice Brown. It is denied.

Signed: Butler

Acting Presiding Justice

cc: All parties

APPENDIX H

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING

SAN FRANCISCO, CALIFORNIA 94102

FEB 29 1984

I have this day filed Order _____

HEARING DENIED

In re: 4 Civ. *No.* 31489

THOMAS R. ANGEL, et al.

vs.

Superior Ct., San Diego
(MICHAEL CASTEL)

Respectfully,

Clerk

37074-877 8-82 4M • OSP

IN THE SUPREME COURT OF THE
UNITED STATES

CASE NUMBER _____

DECLARATION OF	APPEALS CT	4 Civ 31489
SERVICE BY MAIL	SUPERIOR CT	435 836
(C.C.P. 1013a and 2015.5)	MUNICIPAL CT	301 451

I, Angela Angel declare: That I am, and was at the time of service of the papers herein referred to, over the age of eighteen years, and not a party to the action; and I am residing in the County of San Diego, California, in which county the within-mentioned mailing occurred. My residence address is Post Office Box 753 Rancho Santa Fe, California. I served the within

PETITION TO THE UNITED STATES SUPREME COURT: an original and 39 copies on the United States Supreme Court as follows: Clerk, U.S. Supreme Court, Washington, D.C. 20543

of which true and correct copies of the document filed in the cause is affixed by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

California
Supreme Court
4250 State
Building
San Francisco,
CA 94102

Court of Appeal
1350 Front Street
Room 6010
San Diego,
CA 92101

Department of Appeal
Superior Court
220 West Broadway
San Diego, CA 92101

Judge Hanscom
Municipal Court
220 West Broadway
San Diego, CA 92101

Michael Murray
303 A Street/
Suite 405
San Diego, CA
92101

I then sealed each envelope and, with the postage thereon fully prepaid, deposited each in the United States mail at Rancho Santa Fe, CA, on April 23, 1984. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 23, 1984, at Rancho Santa Fe, CA

_____